

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, WT Docket No. 17-200

I fully support our effort to reconfigure the 900 MHz band to optimize its use and increase spectrum efficiency. While some users are still capable of using the smaller channels reflected in the current band plan, many are seeking spectrum assignments capable of offering broadband, LTE-based services. By using market forces to combine frequencies and reconfigure the band, we will be able to provide a 3-by-3 megahertz broadband license, while ensuring that there is adequate spectrum for incumbents and those that still seek smaller slivers of spectrum. In sum, we are opening a broadband license in the heart of the 900 MHz band, which should allow for and even expand innovative uses precluded by today's choppy band segmentation.

As a free market advocate, restructuring this band through private sector negotiations is the best and preferable path in my view, and it should ensure that incumbents are protected, relocated, or compensated if they reduce their offerings or no longer want to provide service. However, to the extent that agreements cannot be reached with the last remaining incumbents, they can be relocated if provided with comparable facilities, which essentially means retuning and purchasing new equipment at the broadband licensee's cost. While mandatory relocation is generally troubling, in this instance, other mechanisms to solve the holdout problem, such as an incentive auction, would be overly complex and costly due to the diversity of incumbents, varied offerings, and differing amounts of spectrum held. Unlike in other instances when some implored the Commission to simply revoke licenses in the name of progress, the structure laid out here would ensure existing users are made whole. And, while some reasonably argue spectrum licenses should be treated as property rights, the approach we take today should not in any way be considered a version of eminent domain; incumbents will have recourse rights, including ability to appeal to the Commission if they feel that they are not being fully accommodated, and, if a broadband licensee is found to be acting in bad faith, it could lose the ability to relocate that incumbent. Additionally, with the thresholds set in this order, it appears that very few incumbents would be subject to this procedure. That being said, all parties should be expected to act in good faith: the broadband licensees should not be stingy, and the incumbents should not be greedy.

Further, today's order exempts the largest and most complex systems in the band – many held by utilities – from mandatory relocation, if the incumbent determines it cannot or does not want to move. This is a common-sense approach. Many of these systems are used to secure our power grids, meet other critical infrastructure communication needs, and are very difficult and expensive to relocate. It is my understanding, however, that many large utilities are interested in taking advantage of the benefits of this band restructuring. I hope they take advantage of this opportunity, which can provide an alternative to 6 GHz and other bands that the Commission is considering for spectrum-intensive next-generation systems.

Finally, broadband licensees may take advantage of frequencies currently in the Commission's inventory to enable the transition. In return, the Commission is adopting anti-windfall payments, which happen to look suspiciously similar to spectrum fees. This payment would be calculated based on the results of the 600 MHz auction. Utilizing the Commission's inventory will facilitate this reallocation, and the payments will ensure that the American public is properly compensated for the use of their scarce spectrum resources.

I thank the Chairman for completing this proceeding and staff for answering my questions. I wish all interested broadband licensees the best. They will have a lot of work to do.

I approve.